

## REMARKS

The Examining Attorney has observed that the originally filed Oath of Declaration is defective. The applicant has provided a new Petition and Declaration dated September 9, 2004, which is believed to have crossed in the mail with the Office Action dated September 21, 2004. The applicant respectfully believes that the Declaration filed on September 9, 2004, addresses the Examining Attorney's concerns under 37 CFR 1.66 or 1.68.

### **Drawings**

A formal drawing is enclosed with this response.

### **Claim Objections**

The Examining Attorney has correctly observed that "pholoxidases" is a misspelling of -- phenoloxidases -- in claim 1. Although claim 1 has been cancelled with the enclosed amendment, the limitations of claim 1 have been added to independent claim 3 which is indicated to be allowable but dependent upon rejected base claim. The misspelling has been addressed in claim 3 as provided below.

### **Claim Rejections under 35 USC § 103 -- Obviousness**

Claims 1-2 and 8-12 were rejected as being obvious over Nishida et al., U.S. Patent No. 5,431,820.

The applicant would agree with the Examiner that Nishida et al. "fails to teach or fails to suggest the brown rot fungi converting cellulose or hemicellulose to glucose to be subsequently used by white rot fungi to accelerate production of phenoloxidases." The Examiner has correctly cited that Column 2, lines 30-31 teach the addition of glucose and Column 2, lines 38-52 teach the addition of at least one strain of white rot fungi to

wastewater. The applicant is unsure as to whether or not Nishida et al. suggests that the production of phenoloxidases would be accelerated.

Nevertheless, through the amendment to the claims, claim 3 has been amended to include the use of brown rot fungi. Claims 1 and 2 have been cancelled without prejudice or disclaimer. Furthermore, claims 8-12 have been amended to depend upon amended (directly or indirectly from) claim 3. Accordingly, as affected by the enclosed amendment, claims 3-21 are now believed to be allowable and such action is respectfully requested.

#### **Allowable Subject Matter**

Claims 13-24 were indicated to be allowed. Furthermore, claims 3-7 are indicated to be allowable but dependent upon rejected base claim. Claim 3 has been made into an independent claim incorporating the exact wording of claim 1 as originally filed except that the misspelling of phenoloxidases has been corrected in amended claim 3. This amendment is not believed to affect at all the subject and scope of claim 3 as originally filed and claim 3 would be entitled to its full scope of equivalents as currently provided by the Festo case.

#### **Amendment to Claim 4**

Claim 4 has also been amended to broaden claim 4 to also include the possibility of adding the brown rot fungi at the same time that the white rot fungi is added. This amendment is believed to broaden the scope of claim 4 as originally filed, but since it depends from claim 3 which is indicated to be allowable, this should not require a new search and should also thus also be allowable as well.

## Conclusion

Although claim 3 was made into an independent claim, independent claim 1 was cancelled and no additional claims were added to the application. Accordingly, no additional fees are believed to be due with this response.

Respectfully submitted,

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on this 22nd day of October, 2004.

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